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**REMARKS**

The claims have been amended by rewriting claims 1,6, and 9. Claims 1-9 and remain in the application.

Applicants respectfully request that the objection and rejection of the claims presented be reconsidered and withdrawn in light of the amendments above and the discussion which follows and that the application be found in condition for immediate allowance.

**Claim Objections**

The Examiner has raised an objection to claim 9 for referring to plural members where a singular member was previously recited. The Examiner makes reference to claims 7 and intervening claim 1.

Note that, prior to the present amendment, claim 9 referred to claim 7 which is an independent claim and therefore does not draw dependency from claim 1.

In response, Applicants have amended claim 9 to depend from claim 8, which recites plural members.

**Claim Rejections**

Claims 1-4 and 6 stand rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent number 6,367,748 to Solomon et al. (Hereinafter "Solomon"). Claims 7-9 stand rejected under 35 U.S.C. § 103 as obvious over Solomon in view of what the Examiner

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asserts is old. Claim 9 stands rejected under 35 U.S.C. § 103 as obvious over Solomon in view of U.S. Patent Application Publication No. US2004/0123421 to Bushey.

*Claim 1*

In citing Solomon, the Examiner has cited art that is even further off the mark than the art discussed in Applicants' background section, specifically JP2000-181576. With regard to JP2000-181576, and by extension to Solomon, Applicants have clearly therein identified a problem, the basis for patentable inventions, and presented a solution for the benefit of the public.

However, in light of what might be considered an Examiner's broadest reasonable interpretation for –pivot– and –acts as a pivot– expressly recited in originally filed claim 1, Applicants have amended claim 1 to further clarify and more distinctly claim Applicants' invention. In particular, Applicants request that the Examiner take specific note of Applicants' inclusion of the underlined portions of the phrases ". . . a fixed pivot member . . . " and

. . . which offers sufficient resistance to displacement along the placement plane at a pivot point where the pivot member comes into contact with the placement plane to allow the orientation of the device to be changed about the pivot point

. . .

, the latter being expanded language for –pivot– and –acts as a pivot– of the originally filed claim, in the newly amended subject claims. Applicants have added these phrases to state in more detail what Applicants' invention has heretofore been claimed to be. Applicants also note that support for a fixed pivot member is found not only in the

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claims as originally filed (original claim 4) but also at least in the Specification at page 10, line 7; and page 11, lines 21-22; support may also be found in each of the drawings which make reference to item 4. Support for the expanded language for –pivot– and –acts as a pivot– is found in at least the Specification at page 8 lines 23-25 (rotation axis); page 2, line 23 through page 3, line 5; and is inherent in the pivotal actions referred to therein and in other portions of the specification, claims, and drawings. Further, for additional guidance, the more detailed language is inherent in Applicants' fixed pivot design since the rotational aspect of the prior art, as described in Applicants' Specification at page 2, line 23 through page 3, line 5, were problematic in that the devices of the prior art do not stay in any fixed position due to the rotating castors. That is, the rotating design of the prior art offered insufficient resistance to displacement along the placement plane to act as a pivot without requiring further action on the part of a user (extra force is needed to control the position of the device). Applicant has, by invention, selectively and purposefully chosen to include a fixed pivot member and thereby exclude rotational members.

As amended, Solomon, fails to anticipate claim 1 at least because claim 1 recites a fixed pivot member and Solomon includes a rotating mobility assembly; a rotating mobility assembly cannot be a fixed assembly and therefore Solomon fails to meet at least this limitation of amended claim 1. Note that all embodiments in Solomon require a rotating assembly (castors).

Further, as described in Applicants' specification, a rotating design such as Solomon fails to hold the device in any fixed position due to the rotating castors. Therefore, Solomon's mobility assembly 410 is defective as a pivot and fails to meet the limitations to offering

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sufficient resistance to displacement along the placement plane at a pivot point where the pivot member comes into contact with the placement plane to allow the orientation of the device to be changed about the pivot point

as expressly recited in Applicants claim 1.

It is Applicants' understanding that a rejection on the basis of anticipation under 35 USC 102 is appropriate where each element of a claim at issue is found in a single prior art reference. See *Kalman v Kimberly-Clark Corp.*, 218 USPQ 781 at 789, (Fed. Cir. 1983). The requirement is for an element by element comparison of the recited structure, function and operative steps with what is found in the reference sought to be applied. The rejection is proper where such an element by element comparison finds identity for each element within the four corners of the reference.

It is respectfully submitted that the rejection made in the Official Action falls short of this standard. Further, it is respectfully submitted that no rejection can be framed on the basis of the references cited, whether applied or not, which will support a refusal to allow the claims as presented, without regard for whether that possible rejection is grounded on anticipation under 35 USC 102 or obviousness under 35 USC 103.

A rejection under 35 U.S.C. § 103 would be considered improper because Solomon teaches away from a fixed design. Therefore Solomon cannot properly be used in combination with other art.

For the reasons given above, it is the position of Applicants that Claim 1 defines an invention which is patentably distinct from the reference cited, whether applied or not, under the tests of both 35 USC 102 and 35 USC 103. Should the Examiner

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conclude otherwise, it is respectfully requested that the Examiner's arguments be clarified in any next following Official Action in order that Applicants may more clearly understand the element by element identification (if the rejection is under 35 USC 102) and/or the teaching which suggests obviousness of any combination of references (if the rejection is under 35 USC 103).

*Claims 2, 3, 5 and 6*

With respect to claims 2, 3, 5 and 6, these claims are believed to be in condition for immediate allowance due to their dependence on independent claim 1 which is believed to be allowable.

Applicants' acknowledge that claim 5 was rejected under 35 U.S.C. § 103 in a different rejection. However, that rejection is rendered moot in light of the amendment to claim 1 from which claim 5 depends.

*Claim 4*

Claim 4 is believed to be in condition for immediate allowance due to its dependence on independent claim 1 which is believed to be allowable. Further, Applicants traverse the Examiner's assertion that what is taught in Solomon col. 1, lines 65-67 represents supporting disclosure for a pivot member which is formed integrally with a member constituting the base of the device. To Applicants' understanding, "formed integrally" means, for example, molded into or therewith the base of the device. What is disclosed in Solomon is that the assembly is connected to the device and to Applicants is clearly not a teaching of "formed integrally."

*Claims 7-9*

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Claims 7-9 stand rejected as obvious under 35 U.S.C. § 103 in view of Solomon. In the rejection the Examiner offers no secondary reference.

It is well known that it is incumbent on the Examiner to establish a factual basis to support the legal conclusion of obviousness. In re Fine, 837 F.2d 1071,1073, 5 USPQ2d 1596,1598 (Fed. Cir.1988) and Stratoflex, Inc. V. Aeroquip Corp., 713 F.2d 1530,1535, 218 USPQ 871, 876 (Fed. Cir.1983). And in so doing the Examiner is expected to make the factual determinations set forth in Graham v. John Deere Co., 383 U.S.1,17,148 USPQ 459, 467 (1966) and to provide a reason why one having ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837, F.2d 1044,1051, 5 USPQ2d 1434,1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988); Ashland Oil, Inc. v. Delta Resins & Refractories, Inc., 776 F.2d 281, 293, 227 USPQ 657, 664 (Fed. Cir.1985), cert. denied, 475 U.S.1017 (1986); ACS Hospital Systems, Inc. v. Montefiore Hos- 732 F.2d 1572,1577, 221 USPQ 929, 933 (Fed. Cir.1984). Such showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. In re Oetiker, 977 F.2d 1443,1445, 24 USPQ2d 1443,1444 (Fed Cir.1992). It is submitted that the Examiner here has not meet the burden of such proof under the before stated case law.

Specifically, the Examiner has stated it would have been obvious to the person of ordinary skill in the art to modify Solomon to utilize a notebook computer having a lid portion with a display, the lid portion provided to a body via a hinge so as to open and close with the display face side of the display facing a keyboard for the electronic device, since a notebook computer is more versatile. It is submitted that the Examiner

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here has not meet the burden of such proof under the above stated case law. Applicants respectfully assert that the Examiner has not provided a showing of some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art that would lead that individual to combine the relevant teachings of the cited references. Applicants respectfully request that the Examiner explain the reasons one of ordinary skill in the art would have been motivated by versatility to select this references and to modify it to render claims 7-9 obvious. If there are facts within the personal knowledge of the Examiner supporting the assertion that one of ordinary skill in the art would be motivated to modify the cited reference to achieve the claimed invention, Applicants respectfully request that such facts be made of record in an affidavit under 37 CFR 1.104(d)(2). Without such affidavit or other evidence, the Examiner's obviousness rejection based on versatility is unsupported by the record.

It is respectfully submitted that the pending Claims 7-9 are allowable and further consideration of these claims and its allowance is respectfully requested.

**Request to Proceed to Allowance**

For each and all of the reasons set forth above, and as Applicants believe each and all of Examiner's rejections and or objections have been traversed or rendered moot, Applicants respectfully request that this response be considered, entered, and a timely notice of allowance be issued.

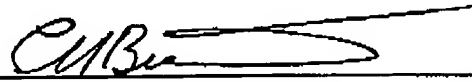
The Examiner is urged to call the undersigned at the below-listed telephone number if, in the Examiner's opinion, such a phone conference would expedite or aid in the prosecution of this application.

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Respectfully Submitted,



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